

**1.**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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BRIAN THRANE,	)	<b>NOTICE OF MOTION TO DISMISS</b>
	)	<b><u>FIRST AMENDED COMPLAINT</u></b>
	)	
Plaintiff,	)	
	)	
-against-	)	15-CV-7418 (FB)(LB)
	)	
	)	
METROPOLITAN TRANSPORTATION	)	
AUTHORITY and MTA BUS COMPANY,	)	
	)	
Defendants.	)	

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To: Walker G. Harman, Esq.  
The Harman Firm, LLP  
Attorneys for the Plaintiff  
220 Fifth Avenue, Suite 900  
New York, New York 10001

**PLEASE TAKE NOTICE**, that Defendants, METROPOLITAN TRANSPORTATION AUTHORITY and MTA BUS COMPANY, by and through their undersigned counsel, shall move to: dismiss Plaintiff's First Amended Complaint, in its entirety and with prejudice, on a date and at a time to be determined by the Court, at the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201.

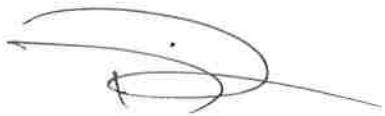
**PLEASE TAKE FURTHER NOTICE**, that Defendants bring this motion to dismiss the First Amended Complaint pursuant to the Federal Rules of Civil Procedure 12(b)(6) on the following grounds, as set forth fully in its accompanying memorandum of law, for failure to state a cognizable disability discrimination claim under the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and New York City Human Rights Law / N.Y.C. Admin. Code §§8-101 *et seq.*, (NYCHRL) because: 1) the pleadings are insufficient to state a cause of action for disability or age discrimination; 2) the facts and law of which the Court may take judicial

notice establish that plaintiff's allegations are meritless; 3) the plaintiff is collaterally estopped from alleging economic damages; and 4) the plaintiff has suffered no damages, economic or non-economic.

**PLEASE TAKE FURTHER NOTICE,** that pursuant to Local Rule 6.1(b) any opposing affidavits and answering memoranda shall be served within fourteen (14) days after service of the within moving papers.

Dated: March 17, 2017

Respectfully submitted,



By:

Thomas J. Deas  
Attorney for the Defendants  
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New York, New York 10004  
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**CERTIFICATE OF SERVICE**

This is to certify that the letter to plaintiff's counsel dated March 17, 2017 (Docket Entry 34), the NOTICE OF MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, DECLARATION OF THOMAS J. DEAS, ESQ., with exhibits, LETTER TO THE COURT dated March 17, 2017, and MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, were sent via email to the email addresses shown below and designated by the following attorneys of record:

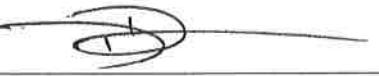
Walker G. Harman, Esq.  
[wharmon@theharmanfirm.com](mailto:wharmon@theharmanfirm.com)

Owen H. Laird, Esq.  
[olaird@theharmanfirm.com](mailto:olaird@theharmanfirm.com)

and via priority mail to the address shown below and designated by the following attorneys of record by depositing a true copy of the aforesaid documents in a postpaid properly addressed envelope in a post office at 90 Church Street, New York, New York, under the exclusive care and custody of the United States Postal Service:

Walker G. Harman, Esq.  
Owen H. Laird, Esq.  
The Harman Firm, LLP  
1776 Broadway, Suite 2320  
New York, NY 10019

On this 17th day of March, 2017.



Thomas J. Deas (TJD 9226)